IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:27/9/2004

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THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

W.P.No.10316 of 2004
and
WPMP Nos.12033 and 12034 of 2004

E. Manoharan .. Petitioner

-vs-

The General Manager
Tamil Nerd State Transport
Corporation Ltd.
(Coimbatore Division)
37, Mettupalayam Road
Coimbatore 43. .. Respondent
This writ petition is filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus as stated therein.

For Petitioner : Mr.S.Ayyathurai

For Respondent : Mr.Rajanish Pathiyil

:ORDER

With the consent of both sides, the writ petition itself is taken up for disposal.
2. The petitioner seeks the relief, which runs as follows:
"Issue a writ of certiorarified mandamus calling for the records from the respondent relating to the order made in Ref.No.1/G.10/5385/ TSTC/2002 dated 27.10.2003 and quashing the same and directing the respondent to reinstate the petitioner with all the benefits including providing light work to the petitioner."
3. Heard the learned Counsel for the petitioner and the learned Counsel for the respondent also. Affidavit in support of the petition is perused.
4. As could be seen from the available materials and submissions made, the petitioner on appointment, has been working as a Mechanic in the respondent Transport Corporation. He suffered a heart attack in August 2000 and underwent a surgery on 8.2.2001. He filed an application for medical reimbursement. The same was originally refused, but, subsequently ordered. While so, there was a departmental enquiry for his absence from duty for a period of 10 days from 24.1.2000. The petitioner produced the medical records

along with an application; but, no orders were passed on the same. Under such circumstances, he came forward to file a writ application before this Court in W.P.No.58 53/2002 for a direction to the respondent to allot some light work for him in view of his health condition. The said writ application was seriously objected to by the respondent Transport Corporation. There was a direction given by this Court that the representation made by the petitioner was to be considered within the time stipulated. Thereafter, the respondent rejected the request by a communication dated 10.4.2002, which was subsequently the subject matter of a writ petition in W.P.No.23488 of 2002. While disposing of the same, this Court made an observation, accepting the plea of the management that there were several persons like the petitioner, and the management was not in a position to provide light work due t o the financial difficulties, and thus, an order of dismissal of the said writ petition came to be passed. Thereafter, the management referred the matter to the Medical Board, where a certificate was issued to the effect that he was medically unfit to do the work, on the basis of which he was served with the impugned order of retirement stating that he was medically invalidated. Hence, the aggrieved petitioner has brought forth this writ application before this Court.

5. The learned Counsel for the petitioner would submit that instead of retiring him on the ground that he was medically invalidated, the management should have given him a light work and should have given him some other work, which he could do; but, his request was not considered by the management, and hence, the impugned order has got to be set aside. In support of his contention, the learned Counsel for the petitioner relied on a decision of the Supreme Court reported in (20 03) 4 SUPREME COURT CASES 524 (KUNAL SINGH V. UNION OF INDIA) and also a decision of this Court reported in 2004 - III - LLJ 152 (RAVICHANDRAN K. VS. M.T.C. LTD.).

6. In answer to the above, it is contended by the learned Counsel for the respondent that in the instant case, originally, there was a writ petition filed by the petitioner before this Court, seeking a direction to the respondent management to give him a light work on the basis of his health condition; that this Court gave a direction to the respondent to consider the representation of the petitioner; that pursuant to the same, the respondent has rejected the request of the petitioner; that thereafter, the petitioner filed another writ petition against the said rejection, which was dismissed by this Court; that subsequently, he was referred to the Medical Board, where a certificate has been issued that he has been medically invalidated, and under such circumstances, there was no option for the management to give him any work, and hence, he has been served with the order of retirement, and in view of these reasons, the order has got to be sustained.

7. At this juncture, it is pertinent to point out that the petitioner was a Mechanic, and he underwent a heart surgery. He gave a representation to the respondent for allotment of light work to him. On rejection of the same, he moved this Court, and this Court made an observation, accepting the plea made by the respondent Transport Corporation that light work could not be given to him, in view of the fact that there were several persons like him and in view of the financial difficulties also. Further, the petitioner has been referred to the Medical Board, where a certificate has been issued that he was medically invalidated. In such circumstances, the petitioner was served with the impugned order. The Court is of the considered opinion that both the

decisions relied on by the petitioner's Counsel are not applicable to the present facts of the case. In the two decisions one by the Supreme Court and the other by this Court, referred to above, one was a Police Constable and the other was a Conductor, and both could be given substituted job. But, in the instant case, the petitioner, who was a mechanic, has been found to be unfit to do mechanical or manual work and medically invalidated, and on the earlier occasion he sought a direction of this Court to the respondent to allot him light work, and the same was denied by this Court in view of the plea of the management that they are not in a position to provide light work to him due to financial difficulties. Under such circumstances, the management cannot be found fault with. The Court is of the considered opinion that it is not a fit case where the relief asked for could be granted in favour of the petitioner.
8. Therefore, this writ petition fails, and the same is dismissed.
No costs. Consequently, connected WPMPs are also dismissed.

Index: yes

Internet: yes

To:

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nsv/